

HOUSE BILL 2899

By Patton

AN ACT relative to medical procedures on incompetent persons.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. It is lawful for any physician or surgeon licensed in this state to perform a medical sterilization of an incompetent individual if all of the following requirements are met:

(1) The parents or other legal guardian of the individual have petitioned the probate or chancery court in the county in which the incompetent person resides for:

(A) A determination as to the competence of the individual. If the court determines that the individual is competent, then the petition shall be dismissed. If the court determines that the individual is incompetent, the court must further determine whether there is any realistic possibility that the individual may become competent at any time in the future. If the court determines that there is a reasonable possibility that the individual may become competent in the future, the petition shall be dismissed. If the court finds that the individual is incompetent and there is no

reasonable possibility that the individual will become competent in the future, then the court shall proceed as provided in this section;

(B) Appointment of a guardian ad litem to represent the interests of the individual; and

(C) Determination by the court whether sterilization is in the best interests of the individual. Convenience of the individual's parents, legal guardian, or other caregiver shall not be considered by the court in making the best interests determination.

(2) A physician or surgeon licensed in this state has determined that sterilization is in the best medical interests of the individual and has provided a written report to the guardian ad litem and the court;

(3) The court makes a final determination, after conducting any evidentiary hearing or other proceedings that may be necessary, that sterilization is in the best interests of the individual (including, but not limited to, the individual's best medical interests); and

(4) Any appeals as to the court's determination have been finally concluded.

SECTION 2. The trial court and any appellate courts are authorized to accept petitions and pleadings, and to file orders and opinions, under seal to protect the confidentiality and privacy of the individual. The determination whether to accept or make filings under seal shall rest in the court's sound discretion.

SECTION 3. Subject to the rules of law applicable generally to negligence, no physician or surgeon licensed by this state shall be liable civilly or criminally by reason of having performed a sterilization authorized by this act upon any person in this state.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

